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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 6195/2022**

MOHIT DHAWAN & ORS.

..... Petitioners

Through: Mr. Raj Kumar, Advocate alongwith
Petitioner.

versus

THE STATE & ANR.

..... Respondents

Through: Mr. Digam Singh Dagar, APP for the
State with SI Pushpendra Pandey, PS
Jagatpuri, Delhi.

Mr. Kavita Nailwal, Advocate for
complainant along with R-2 in
person.

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Date of Decision: 23rd February, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present petition has been filed seeking quashing of FIR 363/2018 registered at PS Jagat Puri under sections 498A/406/34 IPC.
2. Briefly stated facts of the case are that the above-mentioned FIR was lodged on the statement of Respondent No.2/complainant. The parties

got married on 18.01.2017 according to Hindu rites and ceremonies. Temperamental differences arose and the parties started living separately since 22.09.2017. It is pertinent to mention here that there is one male child namely Jagrat Yadav @ Aditya Yadav, born out of this wedlock, on 06.05.2018. He is in care and custody of Respondent No.2 Chargesheet in this case has also been filed.

3. Learned Counsel for the petitioner submits that during the pendency of proceedings the matter was referred before Delhi Mediation Centre, KKD, Delhi where both the parties amicably settled the matter between them, vide settlement deed dated 20.04.2022. As per the settlement it has been agreed between the parties that the petitioner shall pay Rs.8,00,000/- in full and final settlement of the entire dispute to respondent no. 2/complainant.

4. The terms and conditions of the settlement are as follows: –

“1. It is agreed by both the parties that there is no possibility of reunion of the petitioner and the respondent No.1 due to irreconcilable differences. Accordingly, they have decided to separate their ways and go for dissolution of their marriage by mutual consent in accordance with law as provided under Section 13-B of Hindu Marriage Act.

2. It is also agreed between the parties that the parties shall file joint petition under section 13B(1) of Hindu Marriage Act for dissolution of marriage by a decree of divorce by mutual consent within a fortnight from the date of present settlement.

3. It is further agreed between the parties that within 15 days after expiry of statutory period of six months from the date of passing of the order in the first motion petition

under section 13B (1) of the Hindu Marriage Act by mutual consent, the parties shall file the second motion petition under section 13(2) of Hindu Marriage Act. However, the parties are at liberty to move appropriate application for waiver of mandatory period of six months, if they so desire.

4. *It is further agreed that after allowing of the first motion petition under section 13B (1) of the Hindu Marriage Act, the wife shall withdraw –*

1. Maintenance Petition bearing No.123/2019 under Section 125 Cr.PC filed by petitioner (on behalf of minor son Aditya) against the respondent no.1 for grant of maintenance to the minor son as also connected execution petition No.104/2021, both pending in the Court of Ms.Sarita Birbal, learned Principal Judge Family Courts, Shahdara, KKD Courts, Delhi.

2. Petition no.2298/2018 under Section 12 of the Protection of Women from Domestic Violence Act filed by the petitioner against the respondents which is pending in the Court of Ms. Deepti Devesh, learned MM, Shahdara, KKD Courts, Delhi on the date fixed before the courts concerned by making appropriate statement.

5. *It is further agreed between the parties that the husband shall pay a total sum of Rs.8,00,000/- to the wife out of which Rs.7,00,000/- (Rs.Seven lacs only) shall be paid to the wife towards full and final settlement for her maintenance (past, present and future) permanent alimony, istridhan, dowry articles, jewellery etc while Rs.1,00,000/- (Rs. One lacs only) shall be paid in the form of FDR in the name of the minor child Aditya under the guardianship of the wife which shall be payable on the child attaining the age of majority i.e. 18 years and the parties have understood that this amount of Rs.one*

lac is no way to be construed as maintenance towards the minor child.

6. *It is agreed between the parties that the husband shall pay the above-said settled amount to the wife as per the following schedule:-*

i.) Rs.2,50,000/- (Rs.Two lacs and fifty thousand only) shall be paid by the husband to the wife in the form of Demand Draft/RTGS/NEFT at the time of recording of statement in the first motion petition under Section 13B(1) of the Hindu Marriage Act.

iii.) Rs.2,50,000/- (Rs.Two lacs and fifty thousand only) shall be paid by the husband to the wife in the form of Demand Draft/RTGS/NEFT at the time of recording of statement in the second motion petition under Section 13B(2) of the Hindu Marriage Act.

iv.) Rs.3,00,000/- (Rs.Three lacs only) shall be paid by the husband to the wife i.e. Rs.2,00,000/- in the form of Demand Draft/ RTGS/NEFT to the wife while Rs.1,00,000/- shall be paid in the form of FDR in the name of the minor child Aditya under the guardianship of the wife at the time of making statement for proceedings pertaining quashing of the FIR No.363/2018 PS Jagatpuri under Sections 498A/406/34 IPC and Sections 3 & 4 of the Prohibition of Dowry Act.

7. *It has also been amongst between the parties that for quashing of the FIR No.363/2018 PS Jagatpuri under Sections 498A/406/34 IPC and Sections 3 & 4 of the Prohibition of Dowry Act, the husband and member of his family shall file a petition within one month after obtaining the decret of divorce by way of mutual consent and the expenses of the quashing proceedings shall be borne by the husband. The wife shall co-operate with the husband and his family members in quashing of FIR.*

*This settlement is however subject to ratio of the judgments in the cases "Vinod Kumar & others v Govt of NCT of Delhi & an" dated 27.1.2020 (in Cri.MC No.4286/2009), *Birender Kr & an v State of Delhi & an" dated 17.1.2020 (in CrI.MC No. 214/2020) as well as " Rakesh Jain & ors v State & an dated 06.9.2019 (in CrI.MC No.2935/2019), pertaining to quashing of the FIR under Section 482 Cr.PC and in that context the undersigned has also made preliminary scrutiny of the facts so as to satisfy the aspect of possibility for recording this statement that may be acceptable to the Hon'ble High Court of Delhi, bearing in mind the law governing the compounding of the offences or exercise of power of Hon'ble High Court under Section 482 Cr.PC. Parties have been made clear that the outcome of the quashing petition shall be as per merits of the petition itself and this settlement does not confer a right thereto.*

8. *It is also agreed between the parties that the custody of the minor child namely Aditya shall remain with the wife and the husband shall not claim custody of the child and/or visitation rights at any stage and the wife shall be the guardian of the child for all intent and purposes.*

9. *It has been further agreed between the parties that the minor child would be free to have recourse to the provisions of law for seeking appropriate relief from the Court in relation to the aspect of maintenance, education and up-bringing etc in terms of the pronouncement of judgment of the Hon'ble High Court in the case titled "Rakesh Jain & ors v Sarita Gupta (Cri.Misc No.2935/2019).*

10. *It is further agreed between the parties that on completion of terms agreed above, the parties shall not*

be left with any claims towards each other and shall not litigate in future against each other qua their marriage.

11. It is further agreed that either of the parties to the settlement shall not claim any right whatsoever in the movable and immovable property of the opposite party.

12. In case of breach / violation/ willful / deliberate disobedience, the party breaching the terms shall be liable for contempt proceedings and the party aggrieved shall be entitled for status quo-ante in every possible legal way.

13. The defaulting party would return all the benefits / advantages /privileges that have enured in its favour and both the parties would be restored to the position that was before they had arrived at such a settlement agreement.

14. The terms have been settled between the parties of their own free will, volition and consent and without there being any undue pressure, coercion, influence, misrepresentation or mistake (both of law and fact), in any form, whatsoever, and the settlement agreement has correctly recorded the said agreed term.

15. Both the parties undertake that they will abide by and be bound by the agreed terms / stipulations of the settlement agreement.”

5. Pursuant to the settlement, a mutual divorce petition was also filed, and a decree of divorce was granted vide order dated 06.09.2022 passed by Learned Judge, Family Court (Shahdara District) KKD, Delhi.

6. It is submitted that the above-mentioned settlement deed will not affect the rights of the child in the future.
7. The petitioner has paid the remaining sum of Rs.2,00,000/- (Two Lakh only) by way of DD No.798599 dated 20.02.2023 to the Respondent No.2. The petitioner has also in terms of the settlement paid in the form of FDR Deposit Receipt No.192804000004619 dated 29.10.2022, a sum of Rs.1,00,000/- (One Lakh only) which shall be payable on the child attaining the age of majority i.e., 18 years. However, it is submitted that, this amount in no way will be construed as maintenance towards the minor child.
8. Furthermore, the Learned Counsel for the petitioner submits that since the parties have resolved all their differences amicably, therefore, it would be in the interest of justice to quash FIR 363/2018 registered at PS Jagat Puri under sections 498A/406/34 IPC and all the proceedings emanating therefrom.
9. It is settled that the inherent powers under section 482 of the Code are required to be exercised to secure the ends of justice or to prevent abuse of the process of any court. Further, the High Court can quash non- compoundable offences after considering the nature of the offence and the amicable settlement between the concerned parties. Supreme Court and this Court have repeatedly held that the cases arising out of matrimonial differences should be put to a quietus if the parties have reached an amicable settlement. Reliance may be placed upon: ***B.S. Joshi v. State of Haryana***, (2003) 4 SCC 675 ;***K. Srinivas Rao v. D.A.Deepa***, (2013) 5 SCC 226; ***Yashpal Chaudhrani and***

Others vs. State (Govt. of NCT Delhi) and Another, 2019 SCC OnLine Del 8179.

10. Both parties are present in court and have duly been identified by the IO. Respondent no. 2 submits that she has entered the settlement voluntarily without any fear, force or coercion.
11. I consider that there would be no purpose of continuing with the proceedings. It was a matrimonial dispute which has been amicably settled.
12. In view of the above facts and circumstances the case FIR 363/2018 registered at PS Jagat Puri under sections 498A/406/34 IPC alongwith all other proceedings emanating therefrom is quashed.
13. The present petition is disposed of.

DINESH KUMAR SHARMA, J

FEBRUARY 23, 2023/Pallavi

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